

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BARRY LINTON,	: :
Plaintiff	: :
v.	: :
NEW YORK LIFE INSURANCE AND ANNUITY	: :
CORPORATION,	: C.A. No. 04-11362-RWZ
Defendant.	: :

JOINT MOTION TO ENLARGE TIME AND ENLARGE PAGE COUNT

The Plaintiff Barry Linton and the Defendant New York Life Insurance and Annuity Corporation (“New York Life”) hereby jointly and respectfully move (1) for an extension of the deadline for filing of dispositive motions (and related deadlines) in this matter as set forth in the Court’s Order dated January 18, 2006 to be extended by no more than one week as set forth below:

- Parties to file dispositive motions: **February 13, 2006**;
- Oppositions due: **March 13, 2006**; and
- Hearing: To be set at the Court’s convenience,

and (2) for leave to file memoranda of law in support of their respective dispositive motions in excess of the page limitation established by Local Rule 7.1(B)(4), up to and not exceeding thirty-five (35) typed pages in length.

As good cause, the parties state as follows:

1. Plaintiff has requested a one-week extension and Defendant does not object.
2. Additionally, the parties are currently evaluating whether to consider mediation of the dispute, though we caution the Court that no decision has been made and expect that, in any event, summary judgment motions will be filed.

3. The parties further state that neither party will be prejudiced by the extension and that an extension will not substantially affect the timeline for the final disposition of the above-captioned matter.

4. Defendant has requested that the page count be increased and Plaintiff does not object.

5. Defendant's motion seeks summary judgment as to all remaining counts of Plaintiff's Complaint. Additional briefing is required in light of facts learned during discovery that were not available to Defendant at the time it filed its Motion to Dismiss.

WHEREFORE, the parties pray that the Court allow this motion for leave to enlarge the time by which dispositive motions must be filed and to file memoranda of law in excess of twenty pages, but not to exceed thirty-five pages, as set forth above.

Respectfully submitted,

NEW YORK LIFE INSURANCE
AND ANNUITY CORPORATION
By its attorneys,

/s/ Levina Wong (By Permission)
John D. Donovan, Jr. (BBO # 130950)
Robert G. Jones (BBO #630767)
Levina Wong (BBO #654510)
Ropes & Gray LLP
One International Place
Boston, MA 02110
(617) 951-7000

BARRY LINTON
By his attorneys,

/s/ P. Andy Henderson, Jr.
Richard J. Grahn (BBO #206620)
P. Andy Henderson, Jr. (BBO #655891)
Looney & Grossman LLP
101 Arch Street
Boston, MA 02110
(617) 951-2800

Dated: February 1, 2006